

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

U.S. DISTRICT COURT
FILED AT WHEELING, WV
JAN 22 2008
NORTHERN DISTRICT OF WV
OFFICE OF THE CLERK

WILLIAM WILLIAMS and SHIRLEY WILLIAMS,
Co-Executors of the Estate of
Debra Lynn Koenig,

Plaintiffs,

v.

Civil Action No. 5:07CV157
(STAMP)

COMBINED INSURANCE COMPANY OF AMERICA
and ROBERT JOHNSTON

Defendants.

**ORDER GRANTING AS FRAMED PLAINTIFFS' MOTION
TO FILE OUT OF TIME THEIR RESPONSE
TO DEFENDANTS' MOTION TO DISMISS**

On December 10, 2007, the defendants in the above-styled civil action filed a motion to dismiss. The plaintiffs' response was due by December 24, 2007.¹ After filing date for the plaintiffs' response had passed, the defendants, on January 16, 2008, sent a letter to this Court requesting a ruling on their motion. Subsequently, the plaintiffs filed a motion for leave to file their response out of time. According to the plaintiffs, a clerical error prevented plaintiffs' counsel from knowing about the defendants' motion to dismiss until he received a copy of the defendants' January 16, 2008 letter to this Court. On January 18,

¹The plaintiffs' motion incorrectly states that the due date for the response was December 26, 2007. However, the Local Rules of Civil Procedure allow fourteen days for the filing of a response to a motion. L.R. Civ. P. 7.02(b). Because December 24, 2007 was not a federal holiday, and because the electronic filing system for this Court was operational on that date, December 24, 2007 was the due date for the plaintiffs to have filed their response.

2008, the plaintiffs filed a response brief to the defendants' motion to dismiss.

This Court finds that the plaintiffs have shown good cause for their failure to file a timely response to the defendants' motion to dismiss. Accordingly, the plaintiffs' motion for leave to file out of time their response to the defendants' motion to dismiss is hereby GRANTED, with a concomitant extension for the defendants' reply. The plaintiffs' response brief (Doc. No. 10) is accepted as filed. The defendants' reply brief shall be filed on or before January 29, 2008.

IT IS SO ORDERED.

The Clerk is directed to transmit a copy of this order to counsel of record herein. The Clerk is further directed to file the defendants' January 16, 2008 letter to this Court, attached.

DATED: January 22, 2008

/s/ Frederick P. Stamp, Jr.
FREDERICK P. STAMP, JR.
UNITED STATES DISTRICT JUDGE